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October 19, 1995

BY MESSENGER
Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Re: In the Matter of Preparation for the International Telecommunication Union World Radiocommunication Conference.
IC Docket No. 94-31.

Dear Mr. Caton:

The Association for Maximum Service Television ("MSTV"), pursuant to Section 1.1206(a)(1) of the Commission's Rules, hereby files an ex parte submission enclosing a paper that was sent to Commissioner Ness and Mr. Scott Blake Harris. The substance of the attached submission has appeared in our written submissions to the above captioned docket.

Sincerely,

Ellen P. Goodman

Attorney for
Association of Maximum
Service Television, Inc.

Enclosure

October 12, 1995

BROADCAST AUXILIARY SPECTRUM ISSUES AND WRC-95

The United States has proposed to endorse a global allocation of the 1990-2010 MHz band for Mobile Satellite Services ("MSS") at WRC-95 before determining whether such an allocation could be implemented domestically.[1] As a preliminary matter, it is not at all clear that MSS concerns require so much spectrum, especially in light of recent indications that the number of MSS operators able to operate globally will be few and in light of the fact that in most services, the FCC selects among competing applicants and does not simply allocate enough spectrum to accommodate all applicants. Moreover, such a large allocation would displace broadcasters from two of the seven channels (occupying the 1990-2110 MHz band) they use to conduct the electronic news gathering ("ENG") that local and national news coverage demands. This displacement might have been manageable if MSS users did not, in a related proceeding,[2] oppose paying for broadcasters' relocation to higher 2 GHz frequencies or if, in yet a third related proceeding,[3] broadcasters were not effectively barred from operating ENG in the 4 GHz band (4660-4685 MHz).

ENG services are overcrowded, possibly too pinched to make the transition to digital television, and threatened with increased expenses, spectrum reductions, and spectrum relocations. Despite the importance of these services, their champions are fighting in three separate and uncoordinated administrative proceedings to ensure the services' continued vigor. Moreover, Congress is now considering legislation that would force ENG operations from much of the 2 GHz band that would be left over from the global MSS allocation.[4]

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1 The administrative proceeding in which the Commission's consideration of these issues has taken place is IC Docket No. 94-31.

2 In ET Docket No. 95-18, the Commission is considering reallocating 35 MHz (two channels) of the public's ENG spectrum to MSS.

3 In ET Docket No. 94-32, the Commission considered allocating the 4660-4685 MHz band for ENG uses, but decided instead to allocate that band for a miscellany of fixed and mobile services and to auction it off. A group of broadcasters represented a cross-section of the industry believes that the Commission lacked authority to make such a broad allocation and that it is technically impossible for broadcasters to use frequencies allocated in this way. This group, including MSTV, has challenged this decision in a petition for reconsideration.

4 See S. 652, 104th Cong., 1st Sess. §701 (1995) ("the Commission shall allocate the 4635 - 4685 megahertz band . . . for broadcast auxiliary uses. . .[and] all licensees of broadcast auxiliary spectrum in the 2025-2075 megahertz band shall relocate into [this] spectrum").

Unfortunately, the deliberations in each of these fora have taken place in virtual isolation from each other.

It is important that the United States' approach to the 2 GHz band at WRC-95 attempt to take a comprehensive view and consider the effect that the proposed global MSS allocation will have on ENG operations in this country. Broadcasters have urged in the Commission's WRC-95 proceeding that, at a minimum, the U.S. not urge an accelerated implementation of the global allocation. Even MSS proponents say that they would not need the spectrum at least until 2000, thus making the accelerated implementation pointless. Secondly, broadcasters have urged that the U.S. consider very carefully whether MSS has demonstrated a need for the entire global allocation that would justify displacing ENG users. Finally, broadcasters have urged that the U.S. decline to advance certain proposals for an MSS allocation in the 6875-7125 MHz and 12.75-13.25 GHz bands, which are presently allocated to broadcast auxiliary services. There is no evidence showing either (a) the existence of excess capacity in these bands, or (b) the feasibility of sharing between broadcast auxiliary operations and MSS operations in the bands.

WHY IS 2 GHZ SPECTRUM CRITICAL TO VIBRANT AND FREE TV BROADCASTING?

- Broadcast auxiliary services include electronic news gathering and communications between the station studio and transmitter antenna. Most broadcasters and many cable operators rely heavily on this band to support electronic news gathering.

- The 2 GHz band supports important public services, such as live reporting in times of natural disasters, live coverage of important political and community events, and live interviews conducted away from the studio.

- The 2 GHz broadcast auxiliary spectrum is already overcrowded; when news events that justify live coverage occur, the available spectrum is grossly inadequate to meet broadcasters' needs. Moreover, new networks and increased competition to provide high quality local news has generated (and will continue to generate) significant new demands on the 2 GHz band.

- Advanced television will require additional spectrum to support ATV broadcast auxiliary operations; existing broadcast auxiliary spectrum cannot absorb the additional load.

- A reduction in 2 GHz spectrum will have particularly adverse affects on the quality and quantity of electronic news gathering operations in major metropolitan areas. It will be much more difficult for local news operations to cover regional and national events, because the spectrum needed to support "live-action" reporting will simply not be available. In

addition, broadcast and cable networks will have to pare down coverage of special events like the Olympics.

WHY IS ENG USE OF THE 2 GHz BAND THREATENED?

- The International Telecommunications Union (ITU) allocated the 1970-2010 MHz band to MSS at its 1992 meeting for implementation in 2005. However, in September 1994, the Commission allocated the 1970-1990 MHz band to broadband PCS. The Commission plans to implement the ITU's MSS allocation domestically and may accelerate that implementation to as early as 1996. Because PCS and MSS cannot share the 1970-1990 MHz band, the Commission is considering whether an allocation of new MSS spectrum adjacent to 1990-2010 MHz band is necessary.

- The Commission believes that the 1990-2025 MHz band, which is currently allocated for ENG use, could be used both domestically and internationally to support MSS services.

- It is possible that the Commission will not replace the 2 GHz spectrum proposed for MSS and that broadcasters will have to "make do" with the 85 MHz of spectrum in the 2025-2110 MHz band.

- A second possibility is that the Commission will allocate the 2110-2145 MHz band as replacement spectrum for ENG services. This, in turn, would require the relocation of fixed microwave users who currently use that band. These relocations will be expensive and the Commission has proposed that MSS newcomers pay for broadcasters' and the microwave users' relocation. The MSS industry has largely balked at this idea. It is thus very unclear whether these moves would successfully take place.